

ORDINANCE NO. _____,

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY AMENDING VARIOUS SECTIONS OF THE CATHEDRAL CITY MUNICIPAL CODE RELATING TO NOISE

WHEREAS, the City Council of the City of Cathedral City desires to amend various provisions of the Cathedral City Municipal Code ("Municipal Code") relating to noise restrictions and regulations within the City in order to improve protect public health, safety and welfare; improve quality of life for residents and visitors; ensure consistency with the General Plan; and generally increase clarity and enforceability.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1 AMENDMENT TO CATHEDRAL CITY MUNICIPAL CODE SECTIONS 11.96.030, 9.96.130, 9.86.030, AND 9.86.020.

Sections 11.96.030, 9.96.130, 9.86.030, and 9.86.020 of the Cathedral City Municipal Code is hereby amended to read as stated in Exhibit "A".

SECTION 2 SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

SECTION 2 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its second reading and adoption by the City Council.

SECTION 3 POSTING

The City Clerk shall, within fifteen (15) days after passage of this Ordinance, cause it to be posted in at least three (3) designated public places; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

SECTION 4 CERTIFICATION

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on the ____ day of _____, 2017, by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Stan Henry, Mayor

ATTEST:

Gary F. Howell, City Clerk

APPROVED AS TO FORM:

Eric S. Vail, City Attorney

Exhibit "A"

Cathedral City Municipal Code Section 11.96.030 is amended to read as follows. The text of any added language is shown by **underlining, italicizing and bolding** the added text. The text of any deleted matter is shown by ~~strike through~~ of the deleted text.

11.96.030 Prohibited acts.

A. It is unlawful for any person to engage in the following activities:

1. Sounding any horn or signal device on any automobile, motorcycle, bus or other motor vehicle in any other manner or circumstances or for any other purpose than required or permitted by the Vehicle Code or other California laws.

2. Racing the engine of any motor vehicle while the vehicle is not in motion, except when necessary to do so in the course of repairing, adjusting or testing the same.

3. Operating or permitting the use of any motor vehicle on any public right-of-way or public place or on private property within a residential zone for which the exhaust muffler, intake muffler or any other noise abatement device has been modified or changed in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured.

~~4. Operating or permitting the use or operation of personal or commercial music or sound amplification or production equipment that is:~~

~~a. Plainly audible across property boundaries;~~

~~b. Plainly audible through partitions common to two residences within a building;~~

~~c. Plainly audible at a distance of fifty feet in any direction from the source of music or sound between the hours of eight a.m. and ten p.m.; or~~

~~d. Plainly audible at a distance of twenty five feet in any direction from the source of music or sound between the hours of ten p.m. and eight a.m.~~

~~54.~~ The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or any motor vehicle burglar alarm, except for emergency purposes or for testing, unless such alarm is terminated within fifteen minutes of activation.

~~65.~~ Creating excessive noise adjacent to any school, church, court or library while the same is in use, or adjacent to any hospital or care facility, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating the presence of a school, institution of learning, church, court or hospital.

6. To produce, suffer or allow to be produced noise or sounds that exceeds the dB(A) levels in the table below. Exterior noise shall be measured at the lot line of the lot where the noise or sounds are emanating. If the measurement location is on the boundary between two different noise zones, the lower noise level standard applicable to the noise zone shall apply. Interior noise shall be measured at least four feet from the wall, floor, or ceiling nearest to the noise source and with all window, doors and other openings to the exterior closed.

Noises caused by motor vehicles or trains are exempt from these standards.

In the event the ambient noise level exceeds these levels, no person shall produce, suffer or allow to be produced noise or sounds in excess of the ambient noise level.

<u>Zone</u>	<u>Time</u>	<u>dB(A) Level</u>
<u>Residential – Exterior Noise</u>	<u>7am - 10pm</u>	<u>65</u>
	<u>10pm - 7am</u>	<u>50</u>
<u>Residential – Interior Noise</u>	<u>7am -10pm</u>	<u>50</u>
	<u>10pm - 7am</u>	<u>40</u>
<u>Commercial/Industrial – Exterior Noise</u>	<u>7am - 10pm</u>	<u>85</u>
	<u>10pm - 7am</u>	<u>55</u>

~~7. Making or knowingly and unreasonably permitting to be made any unreasonably loud, unnecessary or unusual noise that disturbs the comfort, repose, health, peace and quiet or which causes discomfort or annoyance to any reasonable person of normal sensitivity. The characteristics and conditions that may be considered in determining whether this section has been violated, include, but are not limited to, the following:~~

- ~~a. The level of noise;~~
- ~~b. Whether the nature of the noise is usual or unusual;~~
- ~~c. Whether the origin of the noise is natural or unnatural;~~
- ~~d. The level of the background noise;~~
- ~~e. The proximity of the noise to sleeping facilities;~~
- ~~f. The nature and zoning of the areas within which the noise emanates;~~
- ~~g. The density of the inhabitation of the area within which the noise emanates;~~
- ~~h. The time of day or night the noise occurs;~~
- ~~i. The duration of the noise;~~

~~j. Whether the noise is recurrent, intermittent or constant; and~~

~~k. Whether the noise is produced by a commercial or noncommercial activity.~~

B. A violation of this section is an infraction and a public nuisance.

C. A violation of this section may result in the following.

1. Issuance of an infraction citation;
2. Issuance of a notice of public nuisance;
3. Imposition of criminal and civil penalties; and
4. Confiscation and impoundment as evidence, of the components that are amplifying or transmitting the prohibited noise.

D. An enforcement officer who encounters a violation of this section may issue a written notice to the responsible person demanding immediate abatement of the violation (written notice). The written notice shall inform the recipient that a second violation of the same provision within a seventy-two-hour period may result in the issuance of a criminal citation and/or notice of public nuisance, the imposition of criminal and civil penalties, and confiscation and impoundment as evidence, of the components that are amplifying or transmitting the prohibited noise.

E. Any peace officer who encounters a second violation of this section within a seventy-two-hour period following issuance of a written notice is empowered to confiscate and impound as evidence, any or all of the components amplifying or transmitting the sound.

F. Any person claiming legal ownership of the items confiscated and impounded under this section may request the return of the item by filing a written request with the police department within seven calendar days of the confiscation. Such requests shall be processed in accordance with the procedures adopted by the department.

G. This section shall not apply to any noise emanating from a city operated or sponsored special event, or other events held on public property where the operator of the event has obtained all necessary permits and approvals for the event.

Cathedral City Municipal Code Section 9.96.130 is amended to read as follows. The text of any added language is shown by **underlining, italicizing and bolding** the added text. The text of any deleted matter is shown by ~~strike through~~ of the deleted text.

9.96.130 Game arcades.

A. Game arcades are permitted only where specifically listed within a zone district. Game arcades are subject to a conditional use permit. The commission shall establish reasonable conditions to regulate security concerns, noise, health, safety and public welfare concerns of all types, including but not limited to:

1. School age truancy and evening curfew violations;
2. Overcrowding conditions in and outside the building;
3. Objectionable noise;
4. Traffic/parking and bicycle congestion;
5. Littering;
6. Unsanitary conditions (insufficient restroom facilities, food vending, etc.);
7. Signage and attention-getting devices;
8. Adverse impacts on adjacent businesses and residential areas;
9. Proximity to schools, parks, churches, public gathering places, residential areas.

B. In addition, the conditions imposed shall include:

1. All game arcades shall be entirely within an enclosed building;
2. The minimum distance between game arcades shall be one thousand feet;
3. The minimum distance between a game arcade and a school, religious institution or public park shall be one thousand feet;
4. For any game arcade within a shopping center, walls within the arcade shall be surfaced with sound-deadening material to alleviate noise transmission to neighboring businesses **and all operations shall fully comply with all provisions of Municipal Code chapter 11.96;**
5. Rest rooms shall be provided;
6. The requirement for a conditional use permit shall not apply to any temporary business operating at a specific location for five consecutive days or less which

applies to and receives a special use permit which the mayor and city council may authorize subject to such conditions as the mayor and city council may establish;

7. Time limits shall be established consistent with, but not necessarily limited to, times other businesses in the shopping center or immediate neighborhood are open for business;

8. Adult attendants shall be employed and present on the premises at all times.

Cathedral City Municipal Code Section 9.86.030 is amended to read as follows. The text of any added language is shown by **underlining, italicizing and bolding** the added text. The text of any deleted matter is shown by ~~strike through~~ of the deleted text.

9.86.030 Class B.

It is the intent of the standards of this section to provide for uses whose operational needs may produce noise, vibration, particulate matter, and air contaminants, odors, or humidity, heat, and glare which cannot be mitigated sufficiently to meet the Class A standards. The standards are so designed to protect uses on adjoining sites from effects which could adversely affect their functional and economic viability.

A. Noise. The maximum allowable noise level of any use shall not exceed **the levels established by Municipal Code chapter 11.96.** ~~seventy five dB(A) L10 as measured at the lot line of the lot containing the use. Where a use occupies a lot abutting residential or office-commercial zoned land, the noise level shall not exceed sixty five dB(A) L10 as measured at the common lot line. Noises caused by motor vehicles and trains are exempted from this standard.~~

B. Vibration. All uses shall be so operated as not to generate vibration discernible without instruments by the average person while on or beyond the lot upon which the source is located or within an adjoining enclosed space if more than one establishment occupies a structure. Vibration caused by motor vehicles, trains, and temporary construction or demolition work is exempted from this standard.

C. Particulate Matter and Air Contaminants. In addition to compliance with the air pollution control authorities' standards, all uses shall be operated so as not to emit particulate matter or air contaminants which are readily detectable without instruments by the average person beyond any lot line of the lot containing such uses.

D. Odor. All uses shall be operated so as not to emit matter causing unpleasant odors which are perceptible to the average person beyond any lot line of the lot containing such uses.

E. Humidity, Heat and Glare. All uses shall be operated so as not to produce humidity, heat, glare, or high-intensity illumination which is perceptible without instruments by the average person beyond the lot line of any lot containing such uses.

Cathedral City Municipal Code Section 9.86.020 is amended to read as follows. The text of any added language is shown by **underlining, italicizing and bolding** the added text. The text of any deleted matter is shown by ~~strike through~~ of the deleted text.

9.86.020 Class A.

It is the intent of the standards of this section to ensure a high quality working environment and available sites for industrial and business firms whose functional and economic needs require protection from the adverse effects of noise, odors, vibration, glare or high-intensity illumination, and other nuisances.

A. Noise. The maximum allowable exterior noise level of any use shall not exceed **the levels established by Municipal Code chapter 11.96.** ~~sixty five dB(A) L50 as measured at the property line. Where a structure is occupied by more than one use, the noise level shall not be in excess of sixty dB(A) L10 as measured within the interior space of the neighboring establishment. Noises caused by motor vehicles are exempted from this standard.~~

B. Vibration. All uses shall be so operated as not to generate vibration discernible without instruments by the average person while on or beyond the lot upon which the source is located or within an adjoining enclosed space if more than one establishment occupies a structure. Vibration caused by motor vehicles, trains, and temporary construction or demolition work is exempted from this standard.

C. Particulate Matter and Air Contaminants. In addition to compliance with the air pollution control authorities' standards, all uses shall be operated so as not to emit particulate matter or air contaminants which are readily detectable without instruments by the average person while on the lot containing such uses.

D. Odor. All uses shall be operated so as not to emit matter causing unpleasant odors which are perceptible to the average person while within or beyond the lot containing such uses.

E. Humidity, Heat and Glare. All uses shall be operated so as not to produce humidity, heat, glare, or high-intensity illumination which is perceptible without instruments by the average person while on or beyond the lot containing the use.